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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Masumi Sakai

Attorney Docket No.: SMDZP106

Application No.: 09/779,125

Examiner: A.C. Lavarias

Filed: February 7, 2001

Group: 2872

Title: FURNACE-TYPE ATOMIC ABSORPTION
SPECTROPHOTOMETER

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first-class mail on June 2, 2006 in an envelope addressed to the Commissioner for Patents, Mail Stop Appeal Brief-Patent, P.O. Box 1450 Alexandria, VA 22313-1450.

Signed: Donald Dill
Secretary

**TRANSMITTAL OF REPLY BRIEF
IN RESPONSE TO EXAMINER'S ANSWER**

Mail Stop Appeal Brief-Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is the Reply Brief In Response To Examiner's Answer mailed April 4, 2006.

This reply brief is being filed within two (2) months of the mailing date of the Examiner's Answer.

Applicant believes that no extension of term is required. If an additional extension of time is required, however, please consider this a petition therefor.

Charge any additional fees or credit any overpayment to Deposit Account No. 500388, (Order No. SMDZP106).

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP

Keiichi Nishimura
Registration No. 29,093

P.O. Box 70250
Oakland, California 94612-0250
(510) 663-1100



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Signed:

Deborah Neill

REPLY BRIEF

Sir:

This is in response to the Examiner's Answer dated April 4, 2006.

Response to Examiner's Answer:

The Examiner's argument seems to be based on the following logical sequence:

- (1) The cited references disclose controls in the range of one to five seconds;
- (2) One second is equal to 1000 milliseconds and five seconds is equal to 5000 milliseconds;
- (3) Therefore, the cited references disclose controls in the range of 1000 milliseconds to 5000 milliseconds;
- (4) Therefore, the cited references disclose controls in units of milliseconds.

In justifying Statement (3) as a logical consequence of Statements (1) and (2), the Examiner stated that one of ordinary skill would have known this, based on standard SI convention (from line 3 from the bottom of page 8 to line 2 from the top of page 9 of the Examiner's Answer). Appellant does not object or disagree to this point.

Regarding Statement (4) reached on the basis of Statement (3), or as a logical consequence of Statement (3), however, Appellant respectfully raises objection. Appellant says

that a control in the range of 1second = 1000 milliseconds to 5 cm = 5000 milliseconds is not necessarily a control in units of milliseconds.

Please consider a simpler example of moving an object along a straight line in order to set it at a "correct position". Please consider a control mechanism which moves this object by 1m, 2m, 3m, 5m, 7m, etc. (but never by any distance smaller than 1m) back and forth, for example, in an attempt to place it at the designated correct position. Please also consider another control mechanism which moves this object by 1mm, 2mm, 3mm, 5mm, 7mm, etc. back and forth in order to place it at the designated correct position. Regarding these two exemplary control mechanisms, Appellant says (and believes that any ordinary English-speaking person, not limited by persons skilled in the art of the kind referred to by the Examiner, would also say) that the first control mechanism controls in units of meters and that the second control mechanism controls in units of millimeters. In summary, Appellant is of the opinion that the Examiner is incorrectly interpreting the meaning of "control in units of".

The last four lines in page 8 and the top two lines in page 9 of the Examiner's Answer may be interpreted as indicating that the Examiner did not consider the spectrophotometer of the present inventor to actually have the stated response characteristic. It is Appellant's belief that the claims, as currently presented, can be and should be duly interpreted as indicating that the subject spectrophotometer indeed (actually) has the stated response characteristics.

For the reasons above, it is believed that rejection of independent claim 12 as well as dependent claims 13, 15 and 16 dependent therefrom should be reversed.

Respectfully submitted,



Dated: June 2, 2006
Kefuchi Nishimura (Reg. No. 29,093)
BEYER, WEAVER & THOMAS, LLP
500 12th Street, Suite 200
Oakland, California 94607

Atty. Docket: SMDZ P106

Telephone: (510) 663-1100
Facsimile: (510) 663-0920